

The Business of Being a Professional Sportsperson: A Taxing Question

Chris Davies

School of Law

James Cook University

AUSTRALIA

Corresponding Author:

Associate Professor Dr. Chris Davies,

James Cook University,

AUSTRALIA

Email: chris.davies@jcu.edu.au.

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Abstract

Sport at the beginning of the 21st century, is very different from the turn of the 20th century, one of the major differences being the great increase in the level of professional sport due to the dramatic increase in television revenue, particularly from pay television. In Australia, this rise in professional sport has seen a number of taxation cases involving sportspersons reach the High Court. The outcome of these cases is that the revenue attained by Olympic athletes in the form of grant money, prizemoney and sponsorships is now considered to be taxable income, while payments to managers to obtain playing contracts and other income are deductible expenses. It is also suggested that these cases have highlighted the fact that sports law is, in effect, all areas of law applied to the sporting context, and that this context can be a significant aspect of the case.

Introduction

The last few decades has seen a dramatic change in Australian team sports where the influx of television and sponsorship money has seen the Australian football and rugby league competitions move from part-time, semi-professional leagues to full time professional ones. Decisions by the International Olympic Committee (IOC) in 1984 and the International Rugby Board (IRB) in 1995 to allow professionalism in previously strictly amateur sports have likewise resulted in a significant increase in the number of professional athletes.

This increase in the number of professional athletes in Australia has raised taxation questions in regard to these incomes, and in 2009 the High Court of Australia found itself for the second time in five years having to decide on tax issues involving sportspersons. Previously, in *Commissioner of Taxation v Stone*,ⁱ it had been required to decide whether grants, prizemoney, sponsorship and appearance money earned by an Olympic athlete were assessable income for tax purposes. The issue in the more recent *Spriggs v Commissioner of Taxation*ⁱⁱ and *Riddell v Commissioner of Taxation*ⁱⁱⁱ cases, meanwhile, was whether money paid to player managers in order to obtain an Australian Football League (AFL) or National Football League (NRL) contract and to obtain other income outside of football, could be claimed as expenses under s 8-1 of the *Income Tax Assessment Act 1997* (Cth) (the '1997 Act').

This article will examine the decisions in both *Spriggs* and *Riddell* in regard to this specific taxation issue regarding deductibility, and the broader issue of whether sportspersons could be considered to carry on a business. It will also examine the earlier *Stone* and *Federal Commissioner of Taxation v Maddalena*,^{iv} both of which were extensively referred to in *Spriggs*

and *Riddell*. It will then discuss the similarity in the case histories of *Stone*, *Spriggs* and *Riddell* by examining how the relevant taxation law in each of the cases was applied to the sporting context.

The Alan Maddalena Case

Alan Maddalena was a well known rugby league player who played in the competition run by the New South Wales Rugby League (NSWRL), the forerunner of today's NRL, during the 1960s and 1970s. At the time, rugby league was very much a semi-professional sport with the money the players earned being no more than a supplementary income to a full time occupation, in Maddalena's case, that of an electrician. The issue for the High Court in *Maddalena* was whether he was entitled to deduct expenses incurred in relation to his sporting activities under s 51 of the *Income Tax Assessment Act 1936-1967* (Cth) (the '1936 Act'). These expenses involved his travel costs between his home in Wollongong and Sydney while he attempted to obtain a contract with a NSWRL club, Newtown, and the legal expenses involved with obtaining this new contract.

It was held by Menzies J that the occupation of a professional footballer with his club was that of an employee which meant the employment agreement was a contract of service.^v His Honour held that the expenses were incurred to obtain new employment and therefore were not an allowable deduction for income purposes under s 51 of the 1936 Act. The claim for a deduction under s 64A for the legal expenses involved in obtaining a new contract failed for the same reason.^{vi}

The Joanna Stone Case

Joanna Stone was a javelin thrower who had made money from her sport while competing in various events from 1995 onwards. This had included payments from the Olympic Athletic Program, including money to help her prepare for the 1996 Atlanta Olympic Games,^{vii} sponsorship money,^{viii} prizemoney and appearance money.^{ix} The court action arose after the refusal of the Commissioner to accept her objection to having the amounts she received during the 1999 income year from her sporting activities being assessed as income under the 1997 Act. Stone's claim was that she participated in sport for the enjoyment of it, not the money, with the case being funded by the Australian Olympic Committee (AOC). The original trial judge found in favour of the Commissioner, with Justice Hill stating that a professional athlete who carries on a business does so 'by turning their talent to account for money'^x and therefore the rewards of that business was assessable income.^{xi} An appeal was then made to the Full Court of the Federal Court which in a unanimous decision overturned, at least in part, Justice Hill's decision. The Full Court noted that Stone still had a full time career, that of a police officer, which went against her athletic endeavours being a business activity.^{xii} The prizemoney and grant money was therefore held not to be assessable income, though the appearance money and sponsorship payments were.^{xiii} An appeal was then made to the High Court by the Commissioner.

In a joint judgment, the majority examined the question of carrying on a business and 'income according to ordinary concepts,' with the court noting that the conclusion that receipts are ordinary income will proceed from a conclusion that the person involved was conducting a business.^{xiv} It was also stated that sporting activities may be, but will not always be, distinct from business activities.^{xv} Gleeson CJ et al held that while Stone had sought to distinguish

between sport and business by claiming she entered events for their suitability as competition, not for any financial consideration,^{xvi} the money she received from sponsors formed part of her assessable income. This was because she had turned her sporting ability to the making of money since the sponsorship deals indicated that ‘she was able to make them *because* of her pursuit of those activities.’ The majority also noted that when a person has a view to profit then it is relatively easy to conclude that he or she is engaged in business, but even where the motives are more ‘idealistic than mercenary’ a conclusion that a taxpayer is engaged in business can still be reached.’^{xvii}

In relation to the receipts under the Medal Incentive Scheme and the QAS grant, and whether a distinction should be drawn between prizes and grants,^{xviii} their Honours stated that because it had been held that Stone was in business during the year in question, the issue was whether the receipts received were income of that business.^{xix} The grants were then held to be rewards for her athletic success and therefore a reward from her conduct of her business, namely the business of deriving financial reward from competing in athletics. It therefore was a part of her assessable income. The money paid in sponsorship, meanwhile indicated that she ‘had turned her athletic talent to account for money’, which also supported the conclusion that the taxpayer was involved in a business during the 1998-9 tax year.^{xx}

The David Spriggs Case

David Spriggs was an AFL footballer from 2000 to 2006, originally with Geelong and then for the 2005-6 seasons with the Sydney Swans. At both clubs he had signed the standard player contract which allowed, even expected, that players would earn money from both ‘football

payments' from the player's club, and 'additional services payments' from activities such as promotions.^{xxi} On 7 January, 2000, Spriggs had entered into a representation agreement with Connors Sports Management (CSM), the terms of which stated that CSM would receive 3% of Spriggs' gross earnings under any AFL standard player contract that CSM succeeded in negotiating, and 20% of any earnings relating to promotion, marketing and media activities.^{xxii} During his time at Geelong Spriggs had been earning up to \$205,000 as a player,^{xxiii} with extra income being earned from various promotional work negotiated by CSM.^{xxiv} At Sydney, however, his earnings for the relevant financial year was \$106,869, all but \$215 (interest payments) of it coming from football payments, that is, from being a 'professional sportsperson.'

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The central issue in the case was whether the fee of \$2,310 that Spriggs had paid to CSM during the 2004-5 financial year was deductible under s 8-1 of the 1997 Act, with the primary issue being whether the management fee was incurred while Spriggs was gaining or producing his assessable income, or incurred by Spriggs in carrying on a business of gaining or producing this income. The Commissioner argued that it was 'an outgoing incurred by Spriggs at a point too soon to be incidental and relevant to the income producing activities of Spriggs', or alternatively it was 'a loss or outgoing of capital or of a capital nature under s 8-2 (a) of the [1997]Act.'^{xxvi}

Justice Gordon made an extensive reference to the High Court's discussion in *Stone* regarding the status of professional sport, before stating 'that the term "professional" should not distract attention from the need for a critical assessment of the activities and income of the taxpayer.'^{xxvii} In relation to the 1997 Act Gordon J noted that the first limb of s 8-1 was directed at expenditure

incurred in gaining or producing assessable income, with that expenditure having to be ‘incidental and relevant to the gaining or producing of assessable income.’ ^{xxviii} It was not deductible ‘if it was incurred at a point too soon before the income producing activity commenced.’ ^{xxix} The second limb of s 8-1, meanwhile, operated to only allow deductions of business expenses, and ‘the business must be carried on for the purpose of gaining or producing assessable income.’ ^{xxx}

Justice Gordon stated that the management fee was clearly outgoing, with the issue then being whether it was incurred in the course of gaining or producing assessable income. ^{xxxi} Her Honour stated that the fact that Spriggs could, and had, earned income outside of playing football was because it was permitted under the express terms of the player’s contract. It was further noted that there was a direct relationship between the management fee charged by CSM and Sprigg’s income earning activities since it had occurred 11 days after Spriggs had signed his 2005/6 contract, with the fee being the agreed 3% of this gross income. ^{xxxii} Her Honour then held that employment did not preclude expenditure being deductible under the first limb, and that it was common for expenditure that was ‘relevant and incidental to income earned under employment to be deductible.’ ^{xxxiii}

Justice Gordon also held that Spriggs’ position was not distinguishable to that of the athlete in *Stone*, since, like Stone, he had ‘turned his football talent to account for money both before and during the 2005 income year.’ ^{xxxiv} While the Commissioner had argued that ‘Spriggs was not sufficiently marketable to sustain a viable business’ ^{xxxv} this was rejected by Justice Gordon who pointed out that his income was positive for the financial year in question, and that this year

could not be looked at in isolation. The 2005 financial year was not his best year as a professional footballer, but neither was it his worse. Gordon J then noted that in *Stone*, it had been held that the fact other sports and other athletes may attract larger rewards was irrelevant^{xxxvi} with her Honour also pointing out that business does not have to be successful in order to be considered a business.^{xxxvii}

Justice Gordon then rejected the Commissioner's claim that the expenditure incurred came at a point that was too soon to be considered as incurred in gaining assessable income,^{xxxviii} stating that the reliance on *Maddalena* was 'misplaced',^{xxxix} that case having 'concerned an era of professional sportsmen and women which bears little or no resemblance to professional sport in the twenty first century.'^{xi} The main point of differentiation was that Maddalena was not a full time professional footballer, Spriggs was, with the case also being distinguishable on the grounds that Maddalena sought to claim expenses before a playing contract was signed with the expenses being incurred regardless of whether a contract was going to be signed. Spriggs on the other hand incurred the expenses after the contract was signed.^{xli} Her Honour also pointed out that if Spriggs had re-signed with Geelong for the 2005 season then there would have been no question that the management fee would have been deductible, and that no distinction could be drawn between signing a new contract with the same club, and signing one with a new club, in Spriggs' case, the Sydney Swans.^{xlii} The management fee incurred by Spriggs was therefore held not to have come at a point too soon to be properly regarded as having been incurred in gaining assessable income.^{xliii}

The Commissioner's contention that the management fee was an affair of capital, was also rejected by Gordon J on the grounds that the expenditure 'was calculated to effect from a practical and business point of view'^{xliv}, and 'it was not an outgoing of capital or of a capital nature.'^{xlv}

The Mark Riddell Case

Mark Riddell commenced his NRL career in 1998 with Sydney City^{xlvi} (now Sydney Roosters) before moving to St George on a contract worth \$100,000 in 2000. He then signed a three year deal with Parramatta in 2004 for \$275,000 a season.^{xlvi} Riddell had also entered into a management agreement with the SFX Sports Group (Australia) Pty Ltd (SFX) where SFX claimed 7% of the gross earnings for any playing contract negotiated by SFX and 20% of other income earned by Riddell that was organised by SFX.^{xlvi} Like the AFL standard player contract, therefore, the NRL contract expressly allowed for players to earn money outside of the football contract, and in Riddell's case he had earned \$11,394 from various promotional activities negotiated by SFX during the 2005 financial year.^{xlix}

The issue, therefore, was whether, like Spriggs, Riddell could claim the management fee of \$21,175 for the 2005 financial year under s 8-1 of the 1997 Act, the case being heard immediately after *Spriggs* with the same arguments being presented to the court. It was held by Gordon J that the management fee was both relevant and incidental to Riddell's income as an NRL player,ⁱ the fee having been paid to SFX being compensation for negotiating a playing contract with Parramatta,^{li} and the fact that the contract was for employment did not preclude it from being deductible under s 8-1(a).^{lii} It was also held that being an employee did not mean that he was

not carrying on a business. This was because business includes employment, and while the definition of business does not include ‘occupation as an employee’, Riddell did not have an occupation as an employee, his occupation was that of a ‘professional sportsperson who plays rugby league and who exploits his sporting talent as a NRL player to account for money.’^{liii} Gordon J then applied the same reasoning in *Spriggs* in concluding that it could not be said that the expenditure was incurred too soon to be properly regarded as having been incurred in gaining assessable income,^{liv} nor was it capital and not revenue.^{lv}

Having lost both cases the Commissioner then appealed to the Full Court of the Federal Court with the two cases being heard together.^{lvi}

The Spriggs and Riddell Appeal Cases

(a) The Full Court of the Federal Court Decision

On appeal, the Full Court pointed out that it did not necessarily follow that a person whose activities were that of either a full time or part time professional sportsperson was carrying on a business as such.^{lvii} Thus, if these activities were being carried on as an employee then any incidental, non-sporting activities were likely to be a business that was ‘separate and discrete from his/her activities as an employee.’^{lviii}

The court examined *Maddalena*, referring to Menzies J judgment^{lix} where his Honour had held that Maddalena was an employee of the club, Newtown, and that if he had claimed expenses of changing from one job to another in his full time occupation as an electrician this would not have

been an allowable deduction. This was on the basis that it would be incurred in obtaining work, not as an actual employee, and therefore would be regarded as coming at a point too soon to have been regarded as having been incurred in gaining assessable income. It would also not be an outgoing in carrying on a business.^{lx}

It was also noted by the Full Court that the primary judge had distinguished *Maddalena* on the grounds that:

1. Both Spriggs and Riddell had incurred the management fee within a framework of rules of the AFL and NRL respectively and the terms of the standard player contract.
2. That the fee was incurred after the contract was signed and would not have arisen if the contract had not been signed.
3. There was no resemblance between the era of professional sportspersons at the time of *Maddalena* and that of the 21st century.
4. The factual matrix was different between the part-time football played by *Maddalena* and Spriggs and Riddell's employment as full-time footballers.^{lxi}

The Commissioner's appeal was based on the grounds that *Maddalena* could not be so distinguished. This was on the basis that there was a framework of rules instigated by the NSWRL which did not differ in any relevant respect from those that applied to Spriggs and Riddell; that the fee was paid to obtain an employment contract, as it had been in *Maddalena*; that the differences in the eras did not bear on the deductibility of the fee; and the fact that *Maddalena* was a part-time footballer, Spriggs and Riddell full-time, again did not affect the deductibility of the expenditure.^{lxii} These grounds were then accepted by the court which held

that while ‘the factual matrix’ was different, the distinguishing features relied upon by the primary judge did not result in the principles laid down in *Maddalena* not being applicable in both *Spriggs* and *Riddell*.^{lxiii}

The court also disagreed with the findings of the primary judge in regard to the first limb of s 8-1 that the management fees were relevant and incidental to Sprigg’s and Riddell’s income as professional football players.^{lxiv} It was also held by the court that even if the non-playing activities constituted a business, these activities were ‘separate and discrete from the taxpayer’s activities as a player’ as these activities were carried out on the performance of their duties as an employee.’^{lxv}

Thus, a 3-0 majority of the Full Court of the Federal Court overturned the primary judge’s decision. However, special leave to appeal to the High Court was granted.

(b) The High Court Decision

It was noted by the High Court in a single joint judgment that the contract involving Spriggs was a tripartite one involving the player, the club and also the AFL,^{lxvi} with the question as to whether the management fees were incurred in gaining or producing the assessable income of Spriggs turning on the characterisation of this tripartite agreement.^{lxvii} In relation to the Riddell case it was likewise held that the answer to the question of whether the management fees were similarly incurred could not ‘be found by isolating a contract of employment from the arrangements between Riddell and his club.’^{lxviii}

The Commissioner contended that *Maddalena* required that the playing and non-playing activities be separated and that therefore the management fees were incurred to obtain a new employment contract.^{lxxix} The High Court, however, rejected this argument stating that it was ‘possible to obtain and perform an employment contract as part of, and during the course of, running a business.’^{lxx} The facts were also held to be quite different to those of *Maddalena*^{lxxi} since Maddalena’s activities in rugby league were part time and there was nothing that suggested ‘he conducted himself in a business-like way, for instance, by retaining a manager.’^{lxxii} It was also pointed out that in the 1970s ‘movement between the clubs was more difficult and less structured that it is today.’^{lxxiii}

The High Court then stated that it would be ‘artificial on the facts here to separate the stream of income’ from the non-playing activities, from that earned under the playing contract. Spriggs and Riddell’s ‘promotional activities, exploiting their celebrity, were inextricably linked to their respective employments’^{lxxiv} with the players ‘engaged in the business of commercially exploiting their sporting prowess and associated celebrity for a limited period.’^{lxxv} It was further held that the players were not ‘exclusively or simply an employee of his club’ and ‘there was a synergy between playing activities and non-playing activities, each of which was an income-producing activity.’^{lxxvi} The High Court also stated that both Spriggs and Riddell ‘conducted the whole business in a commercial and business-like way, in particular by retaining a manager’ whose duties ‘included, but went well beyond the negotiations of playing contracts.’^{lxxvii}

Thus, in a 5-0 decision the High Court held that the management fees were deductible under both s 8-1 (1) (a) and (b) of the 1997 Act, and they were revenue expenses not covered by s 8-1(2) (a).

The orders of Justice Gordon were therefore restored.^{lxxviii}

Discussion

An interesting aspect of the *Stone*, *Spriggs* and *Riddell* cases was the similarities in their case histories as in each case the original trial judge's decision was overturned by an unanimous Full Court, before a decisive overruling by the High Court, in *Stone* by a 4-1 majority, in *Spriggs* and *Riddell* by a 5-0 majority. This therefore raises the question as to how the Full Court of the Federal Court could seemingly get it so wrong in regard to these three different taxation cases involving sportspersons.

It is the author's view that the primary judge's decisions in *Stone*, *Spriggs* and *Riddell* were sound decisions, a fact backed up by the High Court restoring each of the decisions. While in *Stone* Justice Hill was of the opinion that it was a 'borderline decision' there was no question that his Honour's conclusion that Stone had turned 'her undoubted talent to account for money'^{lxxix} was the correct one. Stone may have been involved in an Olympic sport, but since the International Olympic Committee (IOC)'s decision in 1984 to allow professional sportspersons to compete in the Olympics, these sports are potentially as financially lucrative as any of the professional football codes in Australia. It should also be noted that Stone's income from javelin throwing from various sources was certainly comparable with the income earned by Spriggs and Riddell. It is also hard to see the differentiation between prizemoney and grants, which were not considered to be assessable income, and sponsorship and appearance money which were. This is because in individual sports like athletics, golf and tennis, the prizemoney is effectively the 'wage' that a player earns. Therefore of the four categories of earnings that were at issue in

Stone, prizemoney was the one that should have been the first to be classified as income.

While it was inevitable that *Maddalena* would be raised in *Spriggs* and *Riddell*, anyone with an understanding and appreciation of the context of sport would acknowledge that there were many significant differences between the two eras. The context of a time where only part time professionalism existed is one that cannot be compared to the full time professionalism that now exists in the AFL and NRL. It is also the author's opinion that the Full Court's statement that the outside football activities carried out by both *Spriggs* and *Riddell* were separate and discrete from their employment, again shows a lack of understanding of the context of sport. The only reason a player, or athlete, can attract payments for various promotions, is because of his or her high profile within a sport. The money from playing and non-playing activities are therefore interconnected with the later and very much dependent on an individual's playing ability, as was noted by the High Court. Thus, the outcome of *Spriggs* and *Riddell* is an acknowledgement that while football players are the employees of the club, as was held in *Maddalena*, their business is broader as it also includes activities outside of their employment, activities that are allowed under the standard player contract.

In regard to the question as to why the Full Court seemingly made a wrong decision in the three cases, it is suggested that the underlining reason was a lack of understanding of the context of sport. The Full Court decision in *Stone* lacked an understanding that the nature of Olympic sport had changed dramatically since the IOC had allowed professionals to compete in the Olympic Games. Athletes no longer competed just for the enjoyment aspect, and therefore prizemoney etc clearly had to be seen as taxable income for anyone who competed in Olympic events. While it

was inevitable that *Maddalena* would be raised by the Commissioner in *Spriggs* and *Riddell*, the case was nearly 40 years old, and hence decided at a different time and in a different era. The primary judge was therefore correct in distinguishing it, since there was no resemblance between the era of sportspersons at the time of *Maddalena*, and that of the 21st century.

Conclusion

Thus, it is the author's opinion that the decisions in *Stone*, *Spriggs* and *Riddell* were all eventually decided correctly, and that *Spriggs* and *Riddell* are consistent with *Stone*. It is also suggested that after having the athlete's income in *Stone* declared taxable income, the Commissioner of Taxation could not then have it both ways by not allowing sportspersons to claim tax deductions for activities that helped them obtain sporting income. It may have taken all three levels in the Federal Court system but it is now established that the management fees paid by professional players in Australia will be deductible under the 1997 Act. Finally, it is suggested that these three cases highlight the fact that sports law is, in effect, all areas of law applied to a sporting context, and that the context of the sport can be an important aspect of the case.

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- ⁱ (2005) 79 ALJR 957.
- ⁱⁱ (2009) 239 CLR 1.
- ⁱⁱⁱ (2009) 239 CLR 1.
- ^{iv} (1971) 2 ATR 541.
- ^v Ibid at 549. Barwick CJ, Windeyer, Owen and Walsh JJ all agreed on this point.
- ^{vi} Ibid at 550.
- ^{vii} *Stone v Commissioner of Taxation* (2003) 196 ALR 221 at 225.
- ^{viii} Ibid at 227.
- ^{ix} Ibid.
- ^x Ibid at 237.
- ^{xi} Ibid at 239.
- ^{xii} *Stone v Commissioner of Taxation* (2003) 198 ALR 541 at 557.
- ^{xiii} Ibid at 558.
- ^{xiv} *Commissioner of Taxation v Stone* (2005) 79 ALJR 956 at 959. The majority consisted of Gleeson CJ, Gummow, Hayne and Heydon JJ with Kirby J dissenting.
- ^{xv} Ibid at 960.
- ^{xvi} Ibid at 963-4.
- ^{xvii} Ibid.
- ^{xviii} Ibid at 965.
- ^{xix} Ibid at 965-6.
- ^{xx} Ibid.
- ^{xxi} *Spriggs v Commissioner of Taxation* [2007] FCA 1817 at [6].
- ^{xxii} Ibid at [10].
- ^{xxiii} Ibid at [12].
- ^{xxiv} Ibid at [27].
- ^{xxv} Ibid at [31].
- ^{xxvi} Ibid at [8].
- ^{xxvii} Ibid at [32].
- ^{xxviii} Ibid at [38].
- ^{xxix} Ibid at [40].
- ^{xxx} Ibid at [41].
- ^{xxxi} Ibid at [42].
- ^{xxxii} Ibid at [44]-[45].
- ^{xxxiii} Ibid at [47].
- ^{xxxiv} Ibid at [48].
- ^{xxxv} Ibid at [49].
- ^{xxxvi} Ibid at [52].

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- xxxvii Ibid at [51].
- xxxviii Ibid at [55].
- xxxix Ibid at [56].
- xl Ibid at [61].
- xli Ibid at [63].
- xlii Ibid at [60].
- xliii Ibid at [63].
- xliv Ibid at [67].
- xlvi Ibid at [68].
- xlvi *Riddell v Commissioner of Taxation* [2007] FCA 1818.
- xlvi Ibid at [25].
- xlvi Ibid at [16].
- xlvi Ibid at [31].
- l Ibid at [35].
- li Ibid at [39].
- lii Ibid at [41].
- liii Ibid at [45].
- liv Ibid at [50].
- lv Ibid at [54].
- lvi *Commissioner of Taxation v Spriggs* [2008] FCAFC 150. Note that while the citation only mentions *Spriggs* the appeal case involved both the *Spriggs* and *Riddell* cases.
- lvii Ibid at [33].
- lviii Ibid at [35].
- lix *Federal Commissioner of Taxation v Maddalena* (1971) 2 ATR 541 at 549-50.
- lx *Commissioner of Taxation v Spriggs* [2008] FCAFC 150 at [36].
- lxi Ibid at [41].
- lxii Ibid at [42].
- lxiii Ibid at [43].
- lxiv Ibid at [47].
- lxv Ibid at [48].
- lxvi *Spriggs v Commissioner of Taxation; Riddell v Commissioner of Taxation* (2009) 239 CLR 1 at 15.
- lxvii Ibid.
- lxviii Ibid at 17.
- lxix Ibid at 21.
- lxx Ibid at 22.
- lxxi Ibid at 23.

^{lxxii} *Ibid* at 22.

^{lxxiii} *Ibid* at 23

^{lxxiv} *Ibid*.

^{lxxv} *Ibid*.

^{lxxvi} *Ibid*.

^{lxxvii} *Ibid*.

^{lxxviii} *Ibid* at 26.

^{lxxix} *Stone v Commissioner of Taxation* (2002) 196 ALR 221 at 238.